

Senate Bill No. 2022

Passed the Senate August 28, 2002

Secretary of the Senate

Passed the Assembly August 26, 2002

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2002, at _____ o'clock __M.

Private Secretary of the Governor

Corrected 8-30-02

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CHAPTER _____

An act to amend Sections 1741, 1760, 2709.5, and 2851 of, to amend and renumber Sections 1758, 1766, 1768, and 1770 of, to amend, renumber, and add Sections 1761, 1762, 1763, 1764, and 1765 of, to add Section 1760.5 to, to repeal Section 1759 of, and to repeal and add Section 1767 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 2022, Figueroa. Healing arts.

(1) Existing law provides for the regulation of dental auxiliaries by the Committee on Dental Auxiliaries, under the jurisdiction of the Dental Board of California. Existing law authorizes a registered dental hygienist to perform certain functions, as prescribed by the board by regulations.

This bill would define the practice of dental hygiene. The bill would delete the authorization that the board determine authorized functions for dental hygienists and would instead set forth procedures that a properly trained dental hygienist is authorized to perform under direct supervision and procedures that he or she is authorized to perform under general supervision. The bill would authorize a dental hygienist to provide educational services, oral health training programs, and oral health screenings without supervision, but would require that a patient with possible oral abnormalities be referred to a dentist. The bill would also authorize a dental hygienist to provide dental hygiene preventative services without supervision in a public health program. The bill would require the board to adopt regulations necessary to define the functions that may be performed, the supervisory requirements, and the settings in which a registered dental hygienist may work.

This bill would authorize a dental hygienist to use any material or device approved for use in the performance of a service or procedure within his or her scope of practice if the dental hygienist has the appropriate education and training.

Existing law requires the board to license as a registered dental hygienist in alternative practice a person who passes an examination required by the board and meets certain other requirements.



The bill would require the board, in consultation with the committee, to adopt regulations necessary to implement these licensing requirements.

This bill would prohibit a person other than a licensed dental hygienist or a licensed dentist from engaging in the practice of dental hygiene or the performance of dental hygiene patient procedures, and would set forth certain exceptions to this prohibition. The bill would require the board to adopt regulations necessary to implement the provisions of law relating to dental auxiliaries.

This bill would make nonsubstantive changes to the provisions regulating dental auxiliaries.

(2) Existing law, the Nursing Practice Act, provides for the licensure of registered nurses by the Board of Registered Nurses. Existing law provides that any fees required by the board may be paid by customary mediums of exchange, including a postal money order.

This bill would delete the specification that a money order be a postal money order.

(3) Existing law, the Vocational Nursing Practice Act, creates the Board of Vocational Nursing and Psychiatric Technicians of the State of California that is composed of 11 members. Under existing law, 5 members of the board constitute a quorum for transaction of business at a meeting.

This bill would instead require 6 members of the board to constitute a quorum.

(4) This bill would incorporate additional changes in Section 1758 of the Business and Professions Code, proposed by AB 2818, to be operative only if AB 2818 and this bill are both chaptered and become effective on or before January 1, 2003, and this bill is chaptered last.

The bill would incorporate additional changes in Section 1770 of the Business and Professions Code, proposed by SB 1589, to be operative only if SB 1589 and this bill are both chaptered and become effective on or before January 1, 2003, and this bill is chaptered last.

The people of the State of California do enact as follows:

SECTION 1. Section 1741 of the Business and Professions Code is amended to read:

1741. As used in this article:

- (a) “Board” means the Dental Board of California.
- (b) “Committee” means the Committee on Dental Auxiliaries.
- (c) “Direct supervision” means supervision of dental procedures based on instructions given by a licensed dentist, who must be physically present in the treatment facility during the performance of those procedures.
- (d) “General supervision” means supervision of dental procedures based on instructions given by a licensed dentist but not requiring the physical presence of the supervising dentist during the performance of those procedures.
- (e) “Dental auxiliary” means a person who may perform dental assisting or dental hygiene procedures authorized by this article. Dental auxiliary also means a registered dental hygienist in alternative practice, who may provide authorized services by prescription provided by a dentist or physician and surgeon licensed to practice in this state. “Dental auxiliary” includes all of the following:
 - (1) A dental assistant pursuant to Section 1750.
 - (2) A registered dental assistant pursuant to Section 1753.
 - (3) A registered dental assistant in extended functions pursuant to Section 1756.
 - (4) A registered dental hygienist pursuant to Section 1766.
 - (5) A registered dental hygienist in extended functions pursuant to Section 1768.
 - (6) A registered dental hygienist in alternative practice pursuant to Section 1774.

SEC. 2. Section 1758 of the Business and Professions Code is amended and renumbered to read:

1766. The board shall license as a registered dental hygienist a person who satisfies all of the following requirements:

- (a) Completion of an educational program for registered dental hygienists, approved by the board, and accredited by the Commission on Dental Accreditation, and conducted by a degree-granting, postsecondary institution.



(b) Satisfactory performance on an examination required by the board.

(c) Satisfactory completion of a national written dental hygiene examination approved by the board.

SEC. 3. Section 1758 of the Business and Professions Code is amended and renumbered to read:

1766. (a) The board shall license as a registered dental hygienist a person who satisfies all of the following requirements:

(1) Completion of an educational program for registered dental hygienists, approved by the board, and accredited by the Commission on Dental Accreditation, and conducted by a degree-granting, postsecondary institution.

(2) Satisfactory performance on an examination required by the board.

(3) Satisfactory completion of a national written dental hygiene examination approved by the board.

(b) The board may grant a license as a registered dental hygienist to an applicant who has not taken an examination before the board, if the applicant submits all of the following to the board:

(1) A completed application form and all fees required by the board.

(2) Proof of a current license as a registered dental hygienist issued by another state that is not revoked, suspended, or otherwise restricted.

(3) Proof that the applicant has been in clinical practice as a registered dental hygienist or has been a full-time faculty member in an accredited dental hygiene education program for a minimum of 750 hours per year for at least five years preceding the date of his or her application under this section. The clinical practice requirement shall be deemed met if the applicant provides proof of at least three years of clinical practice and commits to completing the remaining two years of clinical practice by filing with the board a copy of a pending contract to practice dental hygiene in any of the following facilities:

(A) A primary care clinic licensed under subdivision (a) of Section 1204 of the Health and Safety Code.

(B) A primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code.

(C) A clinic owned or operated by a public hospital or health system.



(D) A clinic owned and operated by a hospital that maintains the primary contract with a county government to fill the county's role under Section 17000 of the Welfare and Institutions Code.

(4) Proof that the applicant has not been subject to disciplinary action by any state in which he or she is or has been previously licensed as a registered dental hygienist or dentist. If the applicant has been subject to disciplinary action, the board shall review that action to determine if it warrants refusal to issue a license to the applicant.

(5) Proof of graduation from a school of dental hygiene accredited by the Commission on Dental Accreditation.

(6) Proof of satisfactory completion of the Dental Hygiene National Board Examination and of a state or regional clinical licensure examination.

(7) Proof that the applicant has not failed the examination for licensure to practice dental hygiene under this chapter more than once or once within five years prior to the date of his or her application for a license under this section.

(8) Documentation of completion of a minimum of 25 units of continuing education earned in the two years preceding application, including completion of any continuing education requirements imposed by the board on registered dental hygienists licensed in this state at the time of application.

(9) Any other information as specified by the board to the extent that it is required of applicants for licensure by examination under this article.

(c) The board may periodically request verification of compliance with the requirements of paragraph (3) of subdivision (b), and may revoke the license upon a finding that the employment requirement or any other requirement of paragraph (3) has not been met.

(d) The board shall provide in the application packet to each out-of-state dental hygienist pursuant to this section the following information:

(1) The location of dental manpower shortage areas in the state.

(2) Any not-for-profit clinics, public hospitals, and accredited dental hygiene education programs seeking to contract with licensees for dental hygiene service delivery or training purposes.

(e) The board shall review the impact of this section on the availability of actively practicing dental hygienists in California



and report to the appropriate policy and fiscal committees of the Legislature by January 1, 2006. The report shall include a separate section providing data specific to dental hygienists who intend to fulfill the alternative clinical practice requirements of subdivision (b). The report shall include, but not be limited to, the following:

(1) The number of applicants from other states who have sought licensure.

(2) The number of dental hygienists from other states licensed pursuant to this section, the number of licenses not granted under this section, and the reason why the license was not granted.

(3) The practice location of dental hygienists licensed pursuant to this section.

(4) The number of dental hygienists licensed pursuant to this section who establish a practice in a rural area or in an area designated as having a shortage of practicing dental hygienists or no dental hygienists or in a safety net facility identified in paragraph (3) of subdivision (b).

(5) The length of time dental hygienists licensed pursuant to this section practiced in the reported location.

(f) In identifying a dental hygienist's location of practice, the board shall use medical service study areas or other appropriate geographic descriptions for regions of the state.

SEC. 4. Section 1759 of the Business and Professions Code is repealed.

SEC. 5. Section 1760 of the Business and Professions Code is amended to read:

1760. The following functions may be performed by a registered dental hygienist in addition to those authorized pursuant to Sections 1760.5, 1761, 1762, 1763, and 1764:

(a) All functions that may be performed by a dental assistant or a registered dental assistant.

(b) All persons holding a license as a registered dental hygienist on January 1, 2003, or issued a license on or before December 31, 2005, are authorized to perform the duties of a registered dental assistant specified in Section 1754. All persons issued a license as a registered dental hygienist on and after January 1, 2006, shall qualify for and receive a registered dental assistant license prior to performance of the duties specified in Section 1754.

SEC. 6. Section 1760.5 is added to the Business and Professions Code, to read:

1760.5. (a) The practice of dental hygiene includes dental hygiene assessment, development, planning, and implementation of a dental hygiene care plan. It also includes oral health education, counseling, and health screenings.

(b) The practice of dental hygiene does not include any of the following procedures:

(1) Diagnosis and comprehensive treatment planning.

(2) Placing, condensing, carving, or removal of permanent restorations.

(3) Surgery or cutting on hard and soft tissue including, but not limited to, the removal of teeth and the cutting and suturing of soft tissue.

(4) Prescribing medication.

(5) Administering local or general anesthesia or oral or parenteral conscious sedation, except for the administration of nitrous oxide and oxygen, whether administered alone or in combination with each other, or local anesthesia pursuant to Section 1761.

SEC. 7. Section 1761 of the Business and Professions Code is amended and renumbered to read:

1768. The board shall license as a registered dental hygienist in extended functions a person who meets all of the following requirements:

(a) Holds a valid license issued pursuant to Section 1766 as a registered dental hygienist.

(b) Completes clinical training approved by the board in a facility affiliated with a dental school under the direct supervision of the dental school faculty.

(c) Performs satisfactorily on an examination required by the board.

SEC. 8. Section 1761 is added to the Business and Professions Code, to read:

1761. A dental hygienist is authorized to perform the following procedures under direct supervision, after submitting to the board evidence of satisfactory completion of a board-approved course of instruction in the procedures:

(a) Soft-tissue curettage.

(b) Administration of local anesthesia.

(c) Administration of nitrous oxide and oxygen, whether administered alone or in combination with each other.



SEC. 9. Section 1762 of the Business and Professions Code is amended and renumbered to read:

1769. The board, in consultation with the committee, shall adopt regulations necessary to define the functions that may be performed by registered dental hygienists in extended functions, whether the functions require direct or general supervision, and the settings within which registered dental hygienists in extended functions may work.

SEC. 10. Section 1762 is added to the Business and Professions Code, to read:

1762. A dental hygienist is authorized to perform the following procedures under general supervision:

(a) Preventive and therapeutic interventions, including oral prophylaxis, scaling, and root planing.

(b) Application of topical, therapeutic, and subgingival agents used for the control of caries and periodontal disease.

(c) The taking of impressions for bleaching trays and application and activation of agents with nonlaser, light-curing devices.

(d) The taking of impressions for bleaching trays and placements of in-office, tooth-whitening devices.

SEC. 11. Section 1763 of the Business and Professions Code is amended and renumbered to read:

1770. A licensed dentist may utilize in his or her practice no more than two dental auxiliaries in extended functions licensed pursuant to Sections 1756 and 1768.

SEC. 12. Section 1763 is added to the Business and Professions Code, to read:

1763. (a) A dental hygienist may provide, without supervision, educational services, oral health training programs, and oral health screenings.

(b) A dental hygienist shall refer any screened patients with possible oral abnormalities to a dentist for a comprehensive examination, diagnosis, and treatment plan.

(c) In any public health program created by federal, state, or local law or administered by a federal, state, county, or local governmental entity, a dental hygienist may provide, without supervision, dental hygiene preventive services in addition to oral screenings, including, but not limited to, the application of fluorides and pit and fissure sealants.



SEC. 13. Section 1764 of the Business and Professions Code is amended and renumbered to read:

1771. Any person, other than a person who has been issued a license by the board, who holds himself or herself out as a registered dental assistant, registered dental assistant in extended functions, registered dental hygienist, registered dental hygienist in extended functions, or registered dental hygienist in alternative practice, or uses any other term indicating or implying he or she is licensed by the board in the aforementioned categories, is guilty of a misdemeanor.

SEC. 14. Section 1764 is added to the Business and Professions Code, to read:

1764. (a) Any procedure performed or service provided by a dental hygienist that does not specifically require direct supervision shall require general supervision, so long as it does not give rise to a situation in the dentist's office requiring immediate services for alleviation of severe pain, or immediate diagnosis and treatment of unforeseeable dental conditions, which, if not immediately diagnosed and treated, would lead to serious disability or death.

(b) Unless otherwise specified in this chapter, a dental hygienist may perform any procedure or provide any service within the scope of his or her practice in any setting, so long as the procedure is performed or the service is provided under the appropriate level of supervision required by this article.

(c) A dental hygienist may use any material or device approved for use in the performance of a service or procedure within his or her scope of practice under the appropriate level of supervision, if the dental hygienist has the appropriate education and training required to use the material or device.

SEC. 15. Section 1765 of the Business and Professions Code is amended and renumbered to read:

1772. The board shall seek to obtain an injunction against any dental hygienist who provides services in alternative practice pursuant to Sections 1774 and 1775 if the board has reasonable cause to believe that the services are being provided to a patient who has not received a prescription for those services from a dentist or physician and surgeon licensed to practice in this state.

SEC. 16. Section 1765 is added to the Business and Professions Code, to read:



1765. No person other than a licensed dental hygienist or a licensed dentist may engage in the practice of dental hygiene or perform dental hygiene procedures on patients, including, but not limited to, supragingival and subgingival scaling, dental hygiene assessment, and treatment planning, except for the following persons:

(a) A student enrolled in a dental or a dental hygiene school who is performing procedures as part of the regular curriculum of that program under the supervision of the faculty of that program.

(b) A registered dental assistant acting in accordance with the rules of the board in applying topical agents used for the control of caries or polishing the coronal surfaces of teeth.

(c) A registered dental hygienist licensed in another jurisdiction performing a clinical demonstration for educational purposes.

SEC. 17. Section 1766 of the Business and Professions Code is amended and renumbered to read:

1773. The provisions of Sections 1715, 1718, 1718.1, 1718.2, and 1718.3 shall govern the renewal, restoration, reinstatement, and reissuance of licenses issued under this article.

The license shall continue in effect through the date provided in Section 1715 that next occurs after its issuance, when it shall expire if not renewed.

SEC. 18. Section 1767 of the Business and Professions Code is repealed.

SEC. 19. Section 1767 is added to the Business and Professions Code, to read:

1767. The board, upon recommendation of the committee, shall adopt regulations necessary to implement the provisions of this article.

SEC. 20. Section 1768 of the Business and Professions Code is amended and renumbered to read:

1774. (a) The board shall license as a registered dental hygienist in alternative practice a person who demonstrates satisfactory performance on an examination required by the board and, subject to Sections 1760 and 1766, who meets either of the following requirements:

(1) Holds a current California license as a dental hygienist and meets the following requirements:



(A) Has been engaged in clinical practice as a dental hygienist for a minimum of 2,000 hours during the immediately preceding 36 months.

(B) Has successfully completed a bachelor's degree or its equivalent from a college or institution of higher education that is accredited by a national agency recognized by the Council on Postsecondary Accreditation or the United States Department of Education, and a minimum of 150 hours of additional educational requirements, as prescribed by the board by regulation, that are consistent with good dental and dental hygiene practice, including, but not necessarily limited to, dental hygiene technique and theory including gerontology and medical emergencies, and business administration and practice management.

(2) Has received a letter of acceptance into the employment utilization phase of the Health Manpower Pilot Project No. 155 established by the Office of Statewide Health Planning and Development pursuant to Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 of the Health and Safety Code.

(b) Subject to the provisions of subdivisions (b) and (h) of Section 1775, the board, in consultation with the committee, shall adopt regulations in accordance with Section 1748 necessary to implement this section.

(c) The Director of Consumer Affairs shall review the regulations adopted by the board in accordance with Section 313.1.

(d) A person licensed as a registered dental hygienist who has completed the prescribed classes through the Health Manpower Pilot Project (HMPP) and who has established an independent practice under the HMPP by June 30, 1997, shall be deemed to have satisfied the licensing requirements under Section 1774, and shall be authorized to continue to operate the practice he or she presently operates, so long as he or she follows the requirements for prescription and functions as specified in this section and Section 1775, with the exception of subdivision (e) of Section 1775, and as long as he or she continues to personally practice and operate the practice or until he or she sells the practice to a licensed dentist.

SEC. 21. Section 1770 of the Business and Professions Code is amended and renumbered to read:



1775. (a) A registered dental hygienist in alternative practice may practice, pursuant to Section 1774, as an employee of a dentist or of another registered dental hygienist in alternative practice, or as an independent contractor, or as a sole proprietor of an alternative dental hygiene practice.

(b) A registered dental hygienist in alternative practice may perform the duties authorized pursuant to Section 1774 in the following settings:

(1) Residences of the homebound.

(2) Schools.

(3) Residential facilities and other institutions.

(4) Dental health professional shortage areas, as certified by the Office of Statewide Health Planning and Development in accordance with existing office guidelines.

(c) A registered dental hygienist in alternative practice shall not do any of the following:

(1) Infer, purport, advertise, or imply that he or she is in any way able to provide dental services or make any type of dental health diagnosis beyond evaluating a patient's dental hygiene status, providing a dental hygiene treatment plan, and providing the associated dental hygiene services.

(2) Hire a registered dental hygienist to provide direct patient services other than a registered dental hygienist in alternative practice.

(d) A registered dental hygienist in alternative practice may submit or allow to be submitted any insurance or third-party claims for patient services performed as authorized pursuant to this article.

(e) A registered dental hygienist in alternative practice may hire other registered dental hygienists in alternative practice to assist in his or her practice.

(f) A registered dental hygienist in alternative practice may hire and supervise dental assistants performing functions specified in subdivision (b) of Section 1751.

(g) A registered dental hygienist in alternative practice shall provide to the board documentation of an existing relationship with at least one dentist for referral, consultation, and emergency services.

(h) A registered dental hygienist in alternative practice may perform dental hygiene services for a patient who presents to the



registered hygienist in alternative practice a written prescription for dental hygiene services issued by a dentist or physician and surgeon licensed to practice in this state who has performed a physical examination and a diagnosis of the patient prior to a prescription being provided. The prescription shall be valid for a time period based on the dentist's or physician and surgeon's professional judgment, but not to exceed 15 months from the date that it was issued.

SEC. 22. Section 1770 of the Business and Professions Code is amended and renumbered to read:

1775. (a) A registered dental hygienist in alternative practice may practice, pursuant to Section 1774, as an employee of a dentist or of another registered dental hygienist in alternative practice, or as an independent contractor, or as a sole proprietor of an alternative dental hygiene practice, or as an employee of a primary care clinic or specialty clinic that is licensed pursuant to Section 1204 of the Health and Safety Code, or as an employee of a primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code, or as an employee of a clinic owned or operated by a public hospital or health system, or as an employee of a clinic owned and operated by a hospital that maintains the primary contracts with a county government to fill the county's role under Section 1700 of the Welfare and Institutions Code.

(b) A registered dental hygienist in alternative practice may perform the duties authorized pursuant to Section 1774 in the following settings:

- (1) Residences of the homebound.
- (2) Schools.
- (3) Residential facilities and other institutions.
- (4) Dental health professional shortage areas, as certified by the Office of Statewide Health Planning and Development in accordance with existing office guidelines.

(c) A registered dental hygienist in alternative practice shall not do any of the following:

- (1) Infer, purport, advertise, or imply that he or she is in any way able to provide dental services or make any type of dental health diagnosis beyond evaluating a patient's dental hygiene status, providing a dental hygiene treatment plan, and providing the associated dental hygiene services.



(2) Hire a registered dental hygienist to provide direct patient services other than a registered dental hygienist in alternative practice.

(d) A registered dental hygienist in alternative practice may submit or allow to be submitted any insurance or third-party claims for patient services performed as authorized pursuant to this article.

(e) A registered dental hygienist in alternative practice may hire other registered dental hygienists in alternative practice to assist in his or her practice.

(f) A registered dental hygienist in alternative practice may hire and supervise dental assistants performing functions specified in subdivision (b) of Section 1751.

(g) A registered dental hygienist in alternative practice shall provide to the board documentation of an existing relationship with at least one dentist for referral, consultation, and emergency services.

(h) A registered dental hygienist in alternative practice may perform dental hygiene services for a patient who presents to the registered dental hygienist in alternative practice a written prescription for dental hygiene services issued by a dentist or physician and surgeon licensed to practice in this state who has performed a physical examination and a diagnosis of the patient prior to a prescription being provided. The prescription shall be valid for a time period based on the dentist's or physician and surgeon's professional judgment, but not to exceed 15 months from the date that it was issued.

SEC. 23. Section 2709.5 of the Business and Professions Code is amended to read:

2709.5. The board shall accept in payment of any fee required by this chapter cash or any customary or generally accepted medium of exchange, including check, cashier's check, certified check or money order. For the purposes of this section, customary or generally accepted medium of exchange does not include postage stamps.

SEC. 24. Section 2851 of the Business and Professions Code is amended to read:

2851. Six members of the board constitute a quorum for transaction of business at any meeting.



SEC. 25. Section 3 of this bill incorporates amendments to Section 1758 of the Business and Professions Code proposed by both this bill and AB 2818. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2003, (2) each bill amends Section 1758 of the Business and Professions Code, and (3) this bill is enacted after AB 2818, in which case Section 2 of this bill shall not become operative.

SEC. 26. Section 22 of this bill incorporates amendments to Section 1770 of the Business and Professions Code proposed by both this bill and SB 1589. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2003, (2) each bill amends Section 1770 of the Business and Professions Code, and (3) this bill is enacted after SB 1859, in which case Section 21 of this bill shall not become operative.



Approved _____, 2002

Governor

